



The State of New Hampshire  
*Department of Environmental Services*



Michael P. Nolin  
Commissioner

January 18, 2006

**CERTIFIED MAIL**

**7000 1670 0001 2907 8750**

**RETURN RECEIPT REQUIRED**

Robert Worthen, Operations Manager  
Worthen Industries, Inc.  
UPACO Division  
3 East Spit Brook Road  
Nashua, NH 03060-5783

**RE: Worthen Industries, Inc.  
UPACO Division  
EPA ID No. NHD001038348**

Dear Mr. Worthen:

Enclosed is Administrative Order No. WMD 06-001 issued this date to Worthen Industries, Inc., UPACO Division as a result of an inspection conducted on June 9, 2005 at the 3 East Spit Brook Road, Nashua, New Hampshire facility.

An Administrative Order ("AO") is a formal enforcement action that serves to introduce the statute, identify the parties, document facts, determine violations, order compliance within specific time periods, and provide notice of the right of appeal.

Although the enclosed AO is very explicit on the violations found and the actions required to correct them, a copy of the completed Hazardous Waste Generator Inspection Report is also enclosed to assist in assessing the violations documented at the facility at the time of the inspection. The report may be of value in determining future compliance with the New Hampshire Hazardous Waste Rules.

As a service to New Hampshire's hazardous waste generators, the Department of Environmental Services, Waste Management Division currently maintains a Hazardous Waste Assistance Hotline which is available for the public to contact our knowledgeable staff of hazardous waste inspectors. The hazardous waste staff members are available to answer questions concerning the New Hampshire Hazardous Waste Rules and the compliance issues which affect your hazardous waste management program, including the administrative plans and

*Robert Worthen  
Worthen Industries, Inc.  
UPACO Division  
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documents required under the Hazardous Waste Rules. The technical assistance available through the Hotline includes fact sheets that pertain to the management and recycling of specific wastes, summary sheets on specific sections of the Hazardous Waste Rules, copies of EPA and New Hampshire hazardous waste policies, regulatory interpretation letters and networking with other state or federal agencies to answer any questions at a national level. The Hotline is available Monday through Friday, 8:00 AM to 4:00 PM toll-free at (1-866) HAZ-WAST (in-state only) or at (603) 271-2942.

Should you have any questions regarding this AO, please contact the lead inspector, Robert Bishop, or John J. Duclos, Administrator of the Hazardous Waste Compliance Bureau, at 271-2942. Thank you for your continued cooperation.

Sincerely,

**COPY**

Paul L. Heitzler, P.E., Esq., Administrator  
Waste Management Programs  
Waste Management Division

cc: DB/RCRA/ORDER/ARCHIVE  
Amy Samson, Administrative Supervisor, Director's Office-WMD  
City Clerk, City of Nashua, NH  
John Pastore, Plant Superintendent, UPACO Division, Worthen Industries, Inc., 3 E. Spit Brook Rd.,  
Nashua, NH 03060-5783  
CT Corp System, 9 Capitol St., Concord, NH 03301 (registered agent)

ec: John Duclos, Administrator HWCB-WMD  
Gretchen Hamel, Legal Unit Administrator, DES Legal Unit  
Public Information Coordinator, DES  
Jennifer Patterson, NHDOJ

Enclosure





The State of New Hampshire  
**Department of Environmental Services**

Michael P. Nolin  
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Worthen Industries, Inc.  
UPACO Division  
3 East Spit Brook Road  
Nashua, NH 03060-5783

RE: EPA ID No. NHD001038348

**ADMINISTRATIVE ORDER**  
**No. WMD 06-001**

**January 18, 2006**

**A. INTRODUCTION**

This Administrative Order is issued by the Department of Environmental Services, Waste Management Division to Worthen Industries, Inc., UPACO Division pursuant to RSA 147-A:14. This Order is effective upon issuance.

**B. PARTIES**

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly-constituted administrative agency of the State of New Hampshire, having its principal offices at 29 Hazen Drive, Concord, New Hampshire.
2. Worthen Industries, Inc., UPACO Division ("UPACO") is a New Hampshire corporation having a mailing and facility address of 3 East Spit Brook Road, Nashua, NH 03060-5783.

**C. STATEMENT OF FACTS AND LAW**

1. RSA 147-A authorizes DES to regulate the management, including storage, treatment, containerization, transportation, and disposal of hazardous wastes. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted New Hampshire Administrative Rules Env-Wm 100-1100 ("Hazardous Waste Rules") to implement this program.
2. UPACO is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities on July 17, 1981. EPA Identification Number NHD001038348 was assigned to UPACO's site located at 3 East Spit Brook Rd., Nashua, New Hampshire (the "Facility").



3. On June 9, 2005, DES personnel conducted an inspection (the "Inspection") of the Facility. The purpose of the Inspection was to determine UPACO's compliance status relative to RSA 147-A and the Hazardous Waste Rules.
4. During the Inspection, DES personnel observed the use of tetrachloroethylene (CAS # 127-18-4) containing brake cleaner in the Nylco division production area. The brake cleaner was sprayed on to machinery to remove adhesives and the spent brake cleaner was removed from the machinery with cloth wipers. The cloth wipers contaminated with brake cleaner were disposed of as a solid waste.
5. The spent brake cleaner, containing tetrachloroethylene (according to the material safety data sheet, the brake cleaner is greater than 95% tetrachloroethylene before use), is an F002 listed hazardous waste, as specified in Env-Wm 402.06(a), ("F002 Brake Cleaner").
6. Env-Wm 404.01(a)(1) specifies that any waste or material, mixed with any waste listed in Env-Wm 402.06(a) (Generic Industrial Process Wastes) shall be regulated as a hazardous waste.
7. The mixture of the F002 Brake Cleaner and a cloth wiper is an F002 listed hazardous waste, as specified in Env-Wm 404.01(a)(1), ("F002 Cloth Wiper").
8. RSA 147-A:4, I, requires that any person operating a hazardous waste facility first obtain a permit from DES.
9. Disposal of F002 Cloth Wipers in a solid waste container is a form of disposal which requires a hazardous waste facility permit.
10. Env-Wm 353.01 specifies that an operator may obtain a hazardous waste facility permit through DES providing all applicable sections of Part Env-Wm 353 are met.
11. DES has no record of receiving a hazardous waste facility permit application from UPACO to dispose of F002 Cloth Wipers in the solid waste container and no such permit has been issued.
12. UPACO has been disposing of the F002 Cloth Wipers in the solid waste container without a hazardous waste facility permit.
13. At the time of the Inspection, DES personnel requested that UPACO discontinue the disposal of the F002 Cloth Wipers in the solid waste container and manage the F002 Cloth Wipers as a hazardous waste.
14. Env-Wm 502.01 requires that all generators of waste determine if their waste is a hazardous waste.
15. At the time of the Inspection, an adequate hazardous waste determination had not been performed on the F002 Cloth Wipers that were being disposed of as a solid waste.



16. During the Inspection, DES personnel observed numerous containers of waste "lab pack" chemicals in the K-row that were not being actively managed as hazardous wastes. These containers of waste "lab pack" chemicals included containers labeled as flammable, corrosive, and toxic; and included the chemicals toluene diisocyanate (U223), ethyl acetate (U112), formaldehyde (U122), and formic acid (U123).

17. On October 11, 2005, Mr. John Pastore, Plant Superintendent, submitted information indicating that the waste "lab pack" chemicals in the K-row were shipped off-site on June 17, 2005 on three (3) hazardous waste manifests: 1) NYG3885597, 2) NYG3885588, and 3) NYG3885723. According to the three (3) manifests, 589 pounds and 3 gallons of waste "lab pack" chemicals from the K-row were shipped as hazardous waste.

18. At the time of the Inspection, an adequate hazardous waste determination had not been performed on the waste "lab pack" chemicals stored in the K-row.

19. During the Inspection, DES personnel observed numerous containers in the K and L rows with the following labels: DNI (Do Not Inventory), QC Reject, Return, and Waste.

20. During the Inspection, DES requested that UPACO conduct an inventory of the materials that were stored in the K and L rows at the time of the Inspection (the "L-Row Inventory").

21. The L-Row Inventory was conducted on June 11, 2005 and submitted by Mr. Pastore to DES in an email dated June 20, 2005.

22. As a result of the L-Row Inventory, UPACO reported that 8,185 pounds of material stored in containers in the K and L rows at the time of the Inspection had been designated as waste prior to the Inspection, through the issuance of a "dump slip."

23. According to records provided to DES on October 11, 2005 by Mr. Pastore, the 8,185 pounds of waste were determined to be hazardous waste.

24. At the time of the Inspection, an adequate hazardous waste determination had not been performed on 8,185 pounds of waste in the K and L rows that had been issued dump slips.

25. As a result of the L-Row Inventory, 14,963 pounds of material stored in the K and L rows that had not been issued dump slips at the time of the Inspection, were issued dump slips and subsequently determined to be hazardous wastes.

26. At the time of the Inspection, an adequate hazardous waste determination had not been performed on the 14,963 pounds of material stored in the K and L rows that were determined to be wastes following the Inspection.

27. Env-Wm 507.02(a) allows generators to accumulate hazardous wastes without a permit, provided that the wastes are shipped off-site within 90-days of the date when accumulation of the waste first began.



28. At the time of the Inspection, 3,640 pounds of the 8,185 pounds of waste in the K and L rows that had been issued dump slips and later determined to be hazardous wastes, had been stored for greater than 90-days. Since the issuance of the dump slips, 496 pounds of hazardous waste had been stored for 743 days; 707 pounds of hazardous waste had been stored for 417 days; 400 pounds of hazardous waste had been stored for 373 days; 517 pounds of hazardous waste had been stored for 367 days; and 1,520 pounds of hazardous waste had been stored for 279 days.

29. At the time of the Inspection, UPACO had stored 3,640 pounds of hazardous waste in the K and L rows for greater than 90 days without a permit.

30. Env-Wm 509.02(a)(1), which references 40 CFR Part 265.15, General Inspection Requirements, requires full quantity generators to conduct inspections of the Facility, including the hazardous waste storage area, and to document the inspections.

31. At the time of the Inspection, UPACO had not documented weekly inspections of the 90-day hazardous waste storage area for 26 out of 156 weeks during the last three years; however, all of the required inspections had been performed during the 6 months immediately prior to the Inspection.

32. Env-Wm 509.02(a)(2), which references 40 CFR Part 265.16, Personnel Training, requires full quantity generators to maintain a personnel training program for its employees responsible for handling hazardous waste.

33. At the time of the Inspection, UPACO did not have a personnel training program for its employees responsible for handling hazardous waste.

34. At the time of the Inspection, UPACO had designated James Demaso, Chomedy Metallic, Brian Pelland, Richard Rowell, John Green, and John Pastore as emergency coordinators. UPACO had not provided hazardous waste training to James Demaso during the last 5 years. UPACO also had not provided training to, John Green during one (1) of the last four (4) years; and Richard Rowell during one (1) of the last five (5) years.

35. Env-Wm 509.02(a)(5), which references 40 CFR Part 265, Subpart D, Contingency Plan and Emergency Procedures, requires full quantity generators to maintain a contingency plan designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

36. At the time of the Inspection, UPACO's contingency plan did not indicate which emergency coordinator was the primary emergency coordinator. In addition, the plan did not include the home addresses of the emergency coordinators.



37. Env-Wm 509.03 allows full quantity generators to store as much as 55-gallons of hazardous waste at or near any point of generation where the wastes initially accumulate provided that the hazardous waste is under the control of the operator of the process generating the waste.

38. At the time of the Inspection, UPACO was storing one (1) full 55-gallon container of hazardous waste alcohol and water (D001) and one (1) half-full 55-gallon container of hazardous waste alcohol and water (D001) at the Ross Vessel satellite storage area. The containers were unattended and were not being actively managed. See the attached Hazardous Waste Container Inventory ("Inventory").

39. At the time of Inspection, UPACO was accumulating greater than 55-gallons of hazardous waste at the Ross Vessel satellite storage area.

40. At the time of the Inspection, UPACO was consolidating hazardous wastes from the QC Laboratory with wastes accumulated in a Churn Room satellite container. The location of the container in the Churn Room did not meet the satellite storage criteria of "under the control of the operator" and "at or near the point of generation," when applied to hazardous waste generated in the QC Laboratory.

41. Env-Wm 509.03(b) requires that satellite handlers of hazardous waste receive initial hazardous waste training and receive review training every three (3) years.

42. At the time of the Inspection, UPACO was not providing hazardous waste training to Bob Dallaire, the operator of the Ross Vessel, for handling satellite storage containers of hazardous waste.

43. Env-Wm 509.03(d), which references Env-Wm 507.01(a)(3), requires hazardous waste to be placed in containers or tanks that are closed at all times except to add or remove waste.

44. During the Inspection, DES personnel observed eight (8) satellite containers of hazardous waste, which were not being actively used to add or remove hazardous waste and were not closed. (See the attached Inventory).

45. Env-Wm 509.03(g) requires containers used for the satellite storage of hazardous waste to be clearly marked with the words "hazardous waste" and words that identify the contents of the container.

46. During the Inspection, DES personnel observed ten (10) satellite storage containers of hazardous waste located throughout the Facility that were not marked with the words "hazardous waste" and words that identify the contents of the container. (See the attached Inventory).

47. Env-Wm 509.03(i)(1)a. and b. require containers used for the satellite storage of hazardous waste to be marked with the excess accumulation date and the EPA or state waste number when the 55-gallon accumulation limit is reached.



48. During the Inspection, DES personnel observed one (1) full 55-gallon satellite storage container of hazardous waste located at the Ross Vessel that was not marked with the excess accumulation date and the EPA or state waste number when the 55-gallon accumulation limit was reached. (See the attached Inventory).

49. Env-Wm 1102.03(c) and Env-Wm 1112.03(a) require universal waste handlers to store universal waste lamps in containers.

50. At the time of the Inspection, three (3) universal waste lamps located in the Maintenance Area were not stored in containers. (See the attached Inventory).

51. Env-Wm 1102.03 and Env-Wm 1112.04 require universal waste handlers to mark universal waste lamps with the words "Universal Waste – Lamp(s)," "Waste Lamp(s)," or "Used Lamp(s)."

52. At the time of the Inspection, the three (3) universal waste lamps located in the Maintenance Area were not marked with the words "Universal Waste – Lamp(s)," "Waste Lamp(s)," or "Used Lamp(s)." (See the attached Inventory).

#### **D. DETERMINATION OF VIOLATIONS**

1. UPACO has violated RSA 147-A:4, I and Env-Wm 353.01 by failing to obtain a permit for the disposal of an F002 hazardous waste in a solid waste container (*i.e.*, F002 Cloth Wipers).

2. UPACO has violated Env-Wm 502.01 by failing to conduct adequate hazardous waste determinations for the waste cloth wipers, waste "lab pack" chemicals, materials that have been issued a dump slip that were stored in the K and L rows, and materials in the K and L rows that were not being actively managed (*i.e.*, issued a dump slip as a result of the L-Row Inventory requested during the Inspection).

3. UPACO has violated Env-Wm 507.02(a) by failing to ship hazardous waste off-site within the 90 day accumulation time limit.

4. UPACO has violated Env-Wm 509.02(a)(1) by failing to conduct and document inspections of the Facility, including the hazardous waste storage area.

5. UPACO has violated Env-Wm 509.02(a)(2) by failing to maintain a personnel training program and to adequately train all personnel responsible for handling hazardous waste.

6. UPACO has violated Env-Wm 509.02(a)(5) by failing to maintain a complete contingency plan at the Facility.

7. UPACO has violated Env-Wm 509.03 by accumulating more than 55-gallons of hazardous waste at a satellite storage area.



8. UPACO has violated Env-Wm 509.03 by failing to store satellite containers of hazardous waste at or near the point of generation and under the control of the operator.
9. UPACO has violated Env-Wm 509.03(b) by failing to provide initial hazardous waste training and review training every three (3) years to an employee handling satellite storage containers of hazardous waste.
10. UPACO has violated Env-Wm 509.03(d) and 507.01(a)(3) by failing to keep satellite storage containers of hazardous waste closed at all times except to add or remove waste.
11. UPACO has violated Env-Wm 509.03(g) by failing to mark containers used for the satellite storage of hazardous waste with the words "hazardous waste" and with a description of the contents.
12. UPACO has violated Env-Wm 509.03(i)(1)a. and b. by failing to mark a container used for the satellite storage of hazardous waste with the excess accumulation date and the EPA or state waste number when the 55-gallon accumulation limit is reached.
13. UPACO has violated Env-Wm 1102.03(c) and Env-Wm 1112.03(a) by failing to store universal waste lamps in containers.
14. UPACO has violated Env-Wm 1102.03 and Env-Wm 1112.04 by failing to mark universal waste lamps with the words "Universal Waste – Lamp(s)," "Waste Lamp(s)," or "Used Lamp(s)."

#### **E. ORDER**

Based on the above findings, DES hereby orders UPACO as follows:

1. **IMMEDIATELY** cease the disposal of the F002 Cloth Wipers as solid wastes.
2. **IMMEDIATELY** ensure that inspections of the Facility (specifically the Hazardous Waste Storage Areas) are conducted and documented, as required by Env-Wm 509.02(a)(1).
3. **IMMEDIATELY** ensure that the 55-gallon satellite storage area accumulation limit is not exceeded, as specified in Env-Wm 509.03.
4. **IMMEDIATELY** ensure that all satellite containers of hazardous waste are stored at or near the point of generation, as specified in Env-Wm 509.03.
5. **IMMEDIATELY** ensure that hazardous waste containers are properly sealed, and bungs or lids are closed except when wastes are actually being added to or removed from the container, as specified in Env-Wm 507.01(a)(3).



6. **IMMEDIATELY** ensure that all containers used for the satellite storage of hazardous waste are marked with the words "hazardous waste" and with a description of the contents, as specified in Env-Wm 509.03(g).

7. **IMMEDIATELY** ensure that all containers used for the satellite storage of hazardous waste are marked with the excess accumulation date and the EPA or state waste number when the 55-gallon accumulation limit is reached, as specified in Env-Wm 509.03(i)(1)a. and b.

8. **IMMEDIATELY** ensure that all universal waste lamps are stored in containers, as specified in Env-Wm 1112.03(a).

9. **IMMEDIATELY** ensure that universal waste lamps or containers holding universal waste lamps are clearly marked with one of the following: "Universal Waste – Lamps," "Waste Lamps," or "Used Lamps," as specified in Env-Wm 1112.04.

10. **WITHIN THIRTY-FIVE (35) DAYS** ship hazardous waste off-site that has exceeded the 90-day accumulation time limit, as required by Env-Wm 507.02(a).

11. **WITHIN THIRTY-FIVE (35) DAYS** ensure that all personnel handling satellite storage containers of hazardous waste receive initial hazardous waste management training, as specified in Env-Wm 509.03(b).

12. **WITHIN THIRTY-FIVE (35) DAYS** submit the following information:

- a. Purchase orders and/or receipts for all of the tetrachloroethylene containing brake cleaner purchased since the first day of operation of the Nylco division;
- b. A written estimate of the quantity of the tetrachloroethylene containing brake cleaner purchased since the first day of operation of the Nylco division;
- c. A written estimate of how long (*i.e.*, years and months) the Nylco division has been disposing of the F002 Cloth Wipers in the solid waste container;
- d. A written estimate of the quantity of F002 Cloth Wipers disposed of during the time period reported in response to question (c.);
- e. The location(s) of disposal of the F002 Cloth Wipers (*i.e.*, solid waste disposal company and location).

13. **WITHIN THIRTY-FIVE (35) DAYS** perform hazardous waste determinations as specified in Env-Wm 502.01 for the waste cloth wipers, waste "lab pack" chemicals, materials that have been issued a dump slip that were stored in the K and L rows, and materials in the K and L rows that were not being actively managed (*i.e.*, issued a dump slip as a result of the inventory requested during the Inspection) and submit the results along with any supporting data used to



make the hazardous waste determinations to DES. Waste determined to be hazardous must be handled pursuant to the requirements of the Hazardous Waste Rules, Env-Wm 100-1100.

14. **WITHIN THIRTY-FIVE (35) DAYS** Develop and maintain a personnel training program as specified in Env-Wm 509.02(a)(2), which references 40 CFR 265.16, Personnel Training, including:

- a. Ensure that all personnel handling hazardous waste receive initial hazardous waste management training and annual updates of their training [40 CFR 265.16(c)]; and
- b. Ensure that the following documents and records are maintained at the Facility:
  1. Job title for each position at the Facility related to hazardous waste management, and the name of the employee filling each job;
  2. A written job description, including requisite skills, education and duties, for positions with hazardous waste management duties; and
  3. Documentation that training has been completed.

15. **WITHIN THIRTY-FIVE (35) DAYS** update the Facility contingency plan to indicate which emergency coordinator is the primary emergency coordinator and add the home addresses of the emergency coordinators to the plan.

16. Submit a written status report to DES **WITHIN THIRTY-FIVE (35) DAYS** of the date of this Order, certifying that corrective measures have been implemented and compliance achieved. Include in the report supporting documentation describing those measures taken to achieve compliance and copies of any written plans or proceedings developed.

17. Please address all submittals, **other than appeals**, to:

Robert Bishop, Waste Management Specialist  
DES, WMD  
P.O. Box 95  
Concord, NH 03302-0095

#### F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Waste Management Council by filing an appeal that meets the requirements specified in Env-WMC 200 within 30 days of the date of this Order. Copies of the rule are available from DES's Public Information Center at (603) 271-2975 or at <http://www.des.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve UPACO of the obligation to comply with the Order.




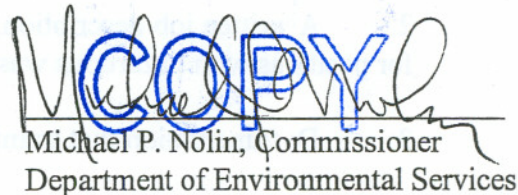
### G. OTHER PROVISIONS

Please note that RSA Ch. 147-A provides for civil and criminal penalties and administrative fines for violations of the statute or any rule adopted by DES relative to the statute, as well as for violations of this Order. RSA 147-A:17 provides for civil forfeitures of up to \$50,000 for each day of a continuing violation, in addition to enforcement by injunctive relief.

DES will continue to monitor the compliance status of UPACO to determine whether the Facility has come into, and is maintaining, full compliance with the applicable rules. Future violations may result in additional enforcement action being taken.

UPACO may assert a confidentiality claim covering part or all of the information requested which constitutes a trade secret, in accordance with RSA 147-A:7, II. If no such claim accompanies the information when it is received by DES, it may be made available to the public by DES without further notice to UPACO.

  
FOR Anthony P. Guinta, P.G., Director  
Waste Management Division

  
Michael P. Nolin, Commissioner  
Department of Environmental Services

cc: DB/RCRA/ORDER/ARCHIVE  
Amy Samson, Administrative Supervisor, Director's Office-WMD  
City Clerk, City of Nashua, NH  
John Pastore, Plant Superintendent, UPACO Division, Worthen Industries, Inc., 3 E. Spit Brook Rd.,  
Nashua, NH 03060-5783  
CT Corp System, 9 Capitol St., Concord, NH 03301 (registered agent)

ec: John Duclos, Administrator HWCBC-WMD  
Gretchen Hamel, Legal Unit Administrator, DES Legal Unit  
Public Information Coordinator, DES  
Jennifer Patterson, NHDOJ

enclosure: Hazardous Waste Generator Inspection Report